SPEECH

OF

HON. ALEXANDER H. STEPHENS,

OF GEORGIA,

ON THE

REPORT OF THE KANSAS INVESTIGATING COMMITTEE,

IN THE CASE OF

REEDER AGAINST WHITFIELD.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, JULY 31, 1856.

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1856.

KANSAS CONTESTED ELECTION.

Mr. STEPHENS said:

Mr. SPEAKER: If I were to consult my feelings to-day, my strength and physical ability, I should not trespass upon the patience of the House. If I were to consider the temperature of the day, the heat—the sweltering heat by which we are almost overpowered, I should certainly say nothing on this occasion. If I were to look to what is the apparent temper and tone of this body upon the subject before us, as indicated by the vote taken two days ago, I should feel constrained to let this question now be decided without a word from me. I should despair of all hope of being able to change what seems to be a fixed determination of a majority of the House by any effort I could make. Day before yesterday I saw a majority on this floor, in order to reach a purpose similar to that which they now seem bent on, vote to confer the most unlimited and dangerous power on the President of the United States. No subservient party in the British House of Commons ever yielded more power to the Crown by a vote of confidence, than this House on the occasion I refer to, conferred upon our Chief Magistrate, whom they have been wont so generally to mistrust, and unjustly to censure and upbraid. I allude to the vote on the amendment offered by the gentleman from Ohio [Mr. SHERMAN] to the Army bill. It is in these words:

"*Provided, nevertheless*, That no part of the military force of the United States herein provided for shall be employed in aid of the enforcement of the enactments of the alleged Legislative Assembly of the Territory of Kansas, recently assembled at Shawnee Mission, until Congress shall have enacted either that it was or was not a valid Legislative Assembly, chosen in conformity with the organic law by the people of the said Territory: *And provided*, That until Congress shall have passed on the validity of the said Legislative Assembly of Kansas, it shall be the duty of the President to use the military force in said Territory to preserve the peace, suppress insurrection, repel invasion, and protect persons and property therein, and upon the national highways in the State of Missouri, or elsewhere, from unlawful seizures and searches: *And be it further provided*, That the President is required to disarm the present organized militia of the Territory of Kansas, and recall all the United States arms therein distributed, and to prevent armed men from going into said Territory to disturb the public peace, or aid in the enforcement or resistance of real or pretended laws."

The President, by this provision, which received the sanction of a majority of this House, is created sole dictator over Kansas. His will, should the Senate concur—which I feel confident they will not do—would be more omnipotent there than that of Cæsar's ever was over the Roman legions, before he crossed the Rubicon. Gentlemen on this side of the House, in their misguided zeal for what they call *freedom*, have conferred on the President a power that I myself would confer on no living man. Not only this: they have conferred a power in direct violation of the Constitution of the United States. They have authorized the President to *disarm the militia of Kansas!* The second amendment of the Constitution is in these words——

Mr. PURVIANCE. I rise to a question of order. Is it in order to refer to the action of this body on a former occasion?

The SPEAKER. The Chair thinks that the gentleman from Georgia is in order so far as he has proceeded.

Mr. STEPHENS. The gentleman may keep quiet. This is not the only vote of the majority I intend to allude to. Another one I have in store may disturb him even more than this. The

second article of the amendment to the Constitution of tl United States is as follows:

"A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

That is the language of the Constitution we have all sworn to support. The right of the people—the militia—to *keep and bear arms shall not be infringed*, says the Constitution; but this House, in the face and teeth of the Constitution, has said that this right shall be infringed!—that the militia of Kansas shall be disarmed, and that the wheels of Government shall be stopped, unless this unconstitutional behest of theirs shall be complied with. And now, since I have seen the majority of this House thus arraying themselves against the Constitution, and striking down this great bulwark of liberty, and the safeguard of the rights of the free white people of this country, to answer an unhallowed purpose of party, under a false idea of "*negro freedom*," am I not justified in saying that I almost despair of effecting anything by what I may say in behalf of right, truth, justice, law, order, and the Constitution?

But, sir, that vote was given without argument—without full debate. On the subject now before us, we are not yet trammeled with the previous question. It is my purpose, therefore, to-day—notwithstanding my bodily weakness, notwithstanding the heat of the weather, and notwithstanding this unfavorable indication of the tone and temper of the House—to make an appeal to whatever good sense and sound judgment may be left in the House. I do not yet despair of the cause of truth. I shall never despair so long as men will hear and lend a listening ear to reason. I intend to-day to argue this question on principles, fixed, immutable, and as unassailable as those of the Constitution itself; and I approach the subject with the feelings of one thrice nerved for the argument, from the consciousness that his cause is bottomed upon truth and right.

The first resolution upon your table declares that JOHN W. WHITFIELD, the sitting Delegate of the Territory of Kansas, is not entitled to his seat, as such, on this floor. And I state, in the outset of what I shall say in opposition to this resolution, that the question has not changed in the slightest degree since the subject was here before. The report of the investigating committee sent out to Kansas has not changed the merits of the case an iota. There is no fact, no circumstance, collected in the mass of testimony that I now have before me, which changes the merits of the question in the smallest particular. How stood the case before the committee was instituted? The sitting Delegate presented himself, with the certificate, under the seal of the Governor of the Territory, as duly elected under the territorial law, passed in conformity with the law of Congress. By virtue of the certificate he was sworn in, and took his seat. What was the objection filed to his holding his seat as such? An allegation on the part of the contestant, not that he did not have a majority of the legal voters at the election, but that the *law passed* in the Territory, under which the sitting Delegate was elected, was *invalid*, and the election under it therefore *void*, *because* of the illegality of the organization of the Territorial Legislature that enacted it. This statement covers the whole merits of the case, as it stood when the committee was raised. I said then, and I say now, that the subject of the *legality* or *illegality* of the organization of the Territorial Legislature of Kansas is a question over which this House has no jurisdiction. The proper return and election of the members of that Legislature were questions to be settled and determined by the Governor and the Houses of the Legislature respectively, themselves. This was my position then, and it is the same now. I shall not, at this time, repeat the argument then submitted; but I throw down the gauntlet, and defy any gentleman to answer or controvert it. No man can get over it or around it, but by overriding principles as old as Magna Charta, and which lie at the foundation of all American representative institutions. The right of every legislative body to settle and determine *absolutely* the election of its own members, is a necessary incident of its own organic functions. In England, the House of Lords cannot question any decision of the Commons touching the election of its members; neither can the Commons question a like decision on the part of the Lords touching the qualifications of a peer; neither can the King, by his prerogative, interfere with the decision of either House on such subjects. These principles are laid down as the "*lex parliamentari*," by Sir Edward Coke, sustained by Blackstone, Mr. Justice Story, Kent, Rawle, and all writers upon the subject. They are incorporated in express terms in the Constitution of the United States, so far as the rights of both Houses of Congress are concerned, and in the constitutions of all our State governments, defining the powers of their legislative bodies.

The same principle is recognized and affirmed by the Supreme Court of the United States in the case of Borden and others, growing out of the Dorr rebellion in Rhode Island in 1842. It lies at the foundation of all legitimate political power as recognized in this country. Without it there can be no certainty in legislation; and without its maintenance, nothing but disorder, confusion, and the wildest anarchy may be expected to ensue. We cannot have a representative Government administered on any other principle. If you can inquire into the legality of the election of the members of the Legislature of the Territory of Kansas, in the question now before us, you can do the same thing with regard to the States. If you can judge of the returns and qualifications of members of that Legislative Assembly, you can also upon the same principle inquire into and judge of the legality of the elections, returns, and qualifications of members of the several State Legislatures that passed the laws under which all the members of this House were elected. The Senate may do the same in their body. Where is the difference? And where is this matter to end? In judging the qualifications and elections of the members of this House, we sit as a court; and in passing judgment upon the validity of such

laws as come before us in our investigations, we are to be governed by the same rules and principles as those of all other courts in like cases. If the law of Kansas under which the sitting Delegate was elected, has anything in it inconsistent with the Constitution of the United States, or the organic act of the Territory, you have a right to that extent to pronounce it *invalid* and *void*, as any other court would have; but questions relating to the organization of the law-making power, courts will never inquire into, and we cannot properly do it either. No case can be found where it has ever been done, either in this country or England.

The Legislature of Kansas was elected in pursuance of a proclamation of the Governor of the Territory, under the organic act passed by Congress. It was made the duty of the Governor to supervise that election, prescribe the mode and manner of holding it, and to declare who was properly and legally elected. You passed another bill day before yesterday, for the reorganization of that Territory, and directing another election to be held in the same way. In that bill the same identical words are used—"that the Governor shall declare who are legally elected to the Legislature." Suppose that bill should become a law, and the Governor appointed under it should order a new election, and after the returns made should declare a majority to be duly elected, just as in the case of the Legislature whose laws are now brought in review, would this House again untertake to set aside that judgment, if it should so turn out that the new Legislature under the new act should pass any laws that the majority of this House might not like? Where is to be the end of this business?

Now, sir, I maintain that, if the bill which has just passed this House, shall become a law, and the Governor to be appointed under it shall order an election for another Legislature, and in pursuance of his directions an election shall be held for members of a House of Representatives and a Council as provided, and the Governor, upon canvassing the returns, shall declare, as it will be his duty to do, who may be duly and legally elected, and shall give certificates accordingly, and the two houses of the Legislature, thus constituted, shall, after being duly sworn, enter upon their legislative duties under a law thus passed by Congress, and shall hear and determine, each House for itself, all matters pertaining to the election of its members, outside of the *prima facie* certificate of the Governor; all such matters and questions so pertaining to the election of the members, and the *legality* of the organization of the Legislature so constituted, will be forever closed by that determination. This House would have no right or power to reopen the question.

And just so in the case before us, Congress passed a law organizing a territorial government. The Governor appointed was authorized to order an election for members of a Legislature at such time, and such places, and in such manner as he thought proper. The returns of the election were to be made to him, and he had power to declare who was duly elected. The House of Representatives was to consist of twenty-six members, and the Council of thirteen. The Governor ordered an election on the 30th of March, 1855. He divided the Territory into ten council districts, fourteen representative districts, and eighteen election districts, or voting precincts. He appointed the judges of election at each poll, and directed how their places thould be filled in case those appointed should fail or refuse to act. The judges were all to be sworn. The rules and regulations for conducting the election were exceedingly rigid. The election was so held. The returns were made to him as required; and out of the twenty-six members of the House of Representatives, he declared seventeen were duly elected, and awarded certificates accordingly. Of thirteen Councilmen, he declared nine were duly elected, and awarded them certificates accordingly. The election of four councilmen and nine representatives to the House he set aside. In these cases he ordered new elections. This took place on the 22d of May, and he awarded certificates to those whom he declared to be duly elected at that election. The members of the House and Council, thus declared to be duly elected by him, were convened by him on the 2d day of July, 1855. Every member, of both the Council and House of Representatives, in that Legislature so convened, took his seat by virtue of the Governor's certificate. These are admitted facts. Nothing brought to light by the investigating committee assails or impeaches any one of them in the slightest degree. Each House, after being thus constituted, inquired into, heard, and determined all questions of contested seats in their respective bodies, as all other legislative assemblies do. The right to do this was inherent in them. On this point Judge Story says, in his Treatise on the Constitution of the United States, volume 2, page 295:

> "The only possible question on such a subject is as to *the body* in which such a power shall be lodged. If lodged in any other than the *legislative body itself*, its independence, its purity, and even its existence and action, may be destroyed or put into imminent danger. No other body but itself can have the same motives to perpetuate and preserve these attributes; no other body can be so perpetually watchful to guard its own rights and privileges from infringement, to purify and vindicate its own character, and to preserve the rights and sustain the free choice of its constituents. *Accordingly, the power has always been lodged in the legislative body by the uniform practice of England and America.*"

Such, too, is the doctrine of Coke, of Blackstone, of Kent, and all writers upon the subject, as I showed before. Each House, therefore, of the Kansas Legislature was the proper tribunal to settle all questions pertaining to the election of its own members; and their decision, when made, was just as final in law as that of ours upon a similar question here. There was, however, no contest over the election of but seven members of the House, and two of the Council. Two members of the Council, and two of the House, whose election was set aside at the first election, were declared duly elected at the second election. Every one of the thirteen members of the Council, therefore, except two, held his seat without

any contest whatever; and nineteen of the twenty-six members of the House of Representatives held their seats without any contest. And after the Houses were thus organized in pursuance of law, and compliance with every legal form, they were recognized as a legally-constituted, law-making body by the Governor. He addressed them official communications as such.

In his first message, in pointing out to them their duties, amongst other things the Governor named the duty of passing some such law as that under which the sitting Delegate was elected. He vetoed some of their acts; but not upon any grounds touching the *legality of their election or organization.* All questions, therefore, of that character, I maintain, upon the soundest principles of constitutional law, are now closed. It is too late to open them; and not one of these great, leading and controlling facts, in this case, is even assailed by any testimony taken by the investigating committee. They are all confirmed and established by that testimony; and if the sitting Delegate shall be voted out upon grounds assumed in the report of the majority of the Committee of Elections, it will establish not only a novel, but a most mischievous precedent. It will be taking one long step towards that revolution which a party in this country seems to be aiming at. This House will but be doing what *it is said* the people of Missouri did in Kansas. It is said they carried the election there by *illegal voting;* and what else will you be doing here? Where do you get the power or authority to say that Governor Reeder did not act right in giving certificates of election to the members of the Legislature whom he adjudged to be duly elected? Where do you get the power, under the Constitution, or under the organic law, or under any other law, to vacate his judgment in this case? The right to judge in the first instance was expressly given to him. The right to judge finally and absolutely necessarily devolved upon the houses of the Legislature respectively. Congress reserved no supervisory power over the subject. Where, then, do you derive your power of annulling a judgment of another department of Government having exclusive and absolute power and jurisdiction over the subject-matter?

If it were true that the greatest frauds had been practiced in the election in Kansas—if any amount of illegal voting had been resorted to, and the people *waived their right* to inquire into it at the *proper time* and before the *proper tribunal*—if they made *no complaint to the Governor* when they *ought to have done it*—if they made *no protest* within the *time prescribed*—if defeated candidates *failed to contest* the returns of their competitors until after the term of office of the members of the Legislature expired, it is, as I maintain, now too late to file any such complaints before this or any other body. The question of the legality of the organization of that Legislature, so elected, so constituted, so recognized by the Governor, so discharging the functions of a law-making power, is, in my judgment, a closed question forever. And this is certainly the private opinion of Governor Reeder himself; for in the mass of testimony, collected by the committee, (pages 1152, 1153, and 1154,) I find two letters written by him in this city last winter to a friend of his in Kansas. I will read to the House an extract of one of these, bearing date the 12th February, 1856. It was in relation to the movements in Kansas, in opposition to the territorial laws. In this letter he says:

"As to putting a set of laws into operation in opposition to the territorial government, my opinion is confirmed instead of being shaken; my predictions have all been verified so far, and will be in the future. *We will be, so far as legality is concerned, in the wrong; and that is no trifling matter, in so critical a state of things, and in view of such bloody consequences.*" * * * * * "I may speak my plain and private opinion to our friends in Kansas, for it is my duty. But to the public, as you will see by my published letter, I show no divided front."

This admission covers the whole ground. In it he distinctly asserts, and gives it as his own candid judgment, that, "*so far as legality is concerned,*" he and his friends were in the wrong. The truths acknowledged in this admission are the same which I have been endeavoring to enforce. The whole merits of this case turn, in the report of the Committee of Elections, upon the simple question of the *legality* of the organization of the Legislature that passed the law under which the sitting Delegate was elected. That, in my judgment, is a closed question. That, in the private judgment of Governor Reeder also, was a closed question. Out of his mouth he stands condemned in this movement.

But, Mr. Speaker, strong as these positions are—unassailable as they are—impregnable as they are—I do not intend to rest the argument solely upon them. I intend to take up the report of the committee of investigation referred to by the gentleman from Maine, [Mr. WASHBURN.] I intend to examine it, and exhibit to this House and the country the character of some of the *facts* reported by them. I intend to examine some of their conclusions, too. The gentleman from Maine [Mr. WASHBURN] says, "that all the conclusions as to matters of fact arrived at by the said special committee are clearly and incontrovertibly established by the testimony in the case." Now, sir, I join issue with the gentleman from Maine, [Mr. WASHBURN.] I join issue with the majority of the Committee of Elections. I join issue also with the investigating committee as to the matters of fact arrived at by them in the conclusions to which they come in their report: and I defy the gentleman from Maine, [Mr. WASHBURN,] or either gentleman on the investigating committee, or anybody else in this House or out of it, to maintain the correctness of the conclusions as to matters of fact arrived at by them. I shall show that what has been proclaimed "official proof," is nothing but *reckless assertion.* The first of these conclusions is in these words:

"That each election in the Territory, held under the organic or alleged territorial law, has been carried by organized invasion from the State of Missouri, by which the people of the Territory have been prevented from exercising the rights secured to them by the organic law."

Now, sir, the gentleman from Maine, [Mr.

WASHBURN,] and the majority of the Committee of Elections, assert in their report that this conclusion, as a matter of fact, is incontrovertibly established by the testimony taken. I say that the testimony taken establishes no such fact. I say that the testimony taken establishes a fact in direct contradiction to this statement. I say that the evidence abundantly and conclusively establishes the fact that General Whitfield was duly elected by the actual and legal resident voters of the Territory, at the election on the 29th of November, 1854. This fact appears not only from the testimony, but it is admitted by the committee of investigation themselves in their own report. Then how can it be true that every election there has been carried by an organized invasion from Missouri?

I will read from the document itself. Here on page 8 is what purports to be an abstract of the vote cast on the 29th of November, 1854, from which it seems that Whitfield got 2,258 votes; Flenniken 305; Wakefield, which (I believe) was a mistake for Whitfield, 248, and 22 scattering. These 305 for Flenniken, and 22 scattering, were all the votes cast against Whitfield in the entire Territory.

Mr. SHERMAN. The gentleman is entirely mistaken. The abstract shows that 2,258 votes were cast for Whitfield; 248 for Wakefield; 305 for Flenniken, and 22 scattering, but that 1,729 of those votes were illegal, and only 1,114 were legal. Of the legal votes cast General Whitfield had a plurality, having received 537 legal votes.

Mr. STEPHENS. I tell the gentleman I am not mistaken; and his statement, that 1,729 of the 2,258 cast for Whitfield were illegal, is not sustained by proof. There is a wide difference between assertion and proof, and this table exhibits the truth of this most forcibly. The table states that there were 1,729 illegal votes cast; but where is the proof of the fact of these 1,729 votes being illegal? The table is not proof. The table also states that there were only 1,114 legal votes cast at that election. Where is the proof of that? But suppose there were only 1,114 legal votes cast. Take from that number 305 votes cast for Flenniken, and 22 scattering, and it would leave Whitfield elected by a large majority; or, if the 248 for Wakefield were not intended for Whitfield, and if all the votes for that name, and the 327 for Flenniken, and scattering, were legal votes, as is assumed, but without proof. then, Whitfield, having 537 admitted legal votes, was duly elected, having received a greater number than any other candidate. How, then, can it be said that his election, in this instance, was carried by an organized invasion from Missouri?

But, sir, I call for the proof upon which this exhibit of *legal* and *illegal* votes is made! The exhibit of Whitfield's, Wakefield's, and Flenniken's votes, and the scattering votes, is copied from the official return, but the *addenda* touching the *legal* and *illegal* votes, and the number of voters under the census taken three months after, have been put to it by the committee. It is in their statement, not in the testimony, and I ask for the proof to warrant it? But, even according to the gentleman's own showing, now made, after deducting from his count one thousand seven hundred and twenty-nine without proof, Whitfield was certainly duly elected *at that election* by the legal voters of the Territory. Indeed, the committee of investigation say, in reference to this election, on page 8 of their report: "Of the legal votes cast, General Whitfield received a plurality." This settles the question. If Whitfield got a plurality of the legal votes of the Territory, of course he was duly elected. Now, sir, I ask the gentleman upon my right [Mr. WASHBURN] to tell me, and this House, and the country, how he and a majority of the committee of elections can say that it is established by "*incontrovertible proof*" that "*each election* in the Territory, held under the organic or alleged territorial law, has been carried by an *organized invasion* from the State of Missouri?" &c. This matter of fact, arrived at by the special committee, "as clearly and incontrovertibly established by the testimony," cannot stand a moment's handling. It falls at the first blow. It is the first conclusion arrived at by the committee of investigation, and incorporated in the report of the Committee of Elections, as the foundation, the very corner-stone of the fabric of their report in this case. This corner-stone, sir, I knock from under the fabric, and the whole superstructure must fall with it, if there be nothing more solid or firm for it to rest upon.

But, sir, I do not intend to stop here. This conclusion of the committee is but a sample of all the rest. I have read the whole of this document of one thousand two hundred and six pages, and I assert that there is not a single one of the conclusions of the committee arrived at as matters of fact, which is sustained by the testimony, massive, voluminous, and contradictory as it is. I repeat, however, here again, that there is not a fact or statement contained in it, by the most prejudiced, one-sided witness sworn, which goes to assail or impeach in the slightest degree the great leading facts upon which the merits of this case rest. These are the elections held in pursuance of the Governor's proclamation under the organic law—his judgment upon the returns of the election of the members—the large majority of both branches of the Legislature holding their seats during their whole term under the certificates of the Governor, without a word of complaint from him or anybody else—that he, as Governor, recognized them as a legislative body—that he did not question the legality of their organization. The testimony of Governor Reeder himself was taken, and none of these facts are denied by him. No word of complaint was ever heard about the legality of the organization of the Legislature, or about an invasion from Missouri, for several long months after the election; nor until after he was turned out of office. During all this time, before he was removed by the President, the only cry heard from him, as the sentinel upon the watchtower of the rights of the people of Kansas, was, "All's well!"

But, sir, I will proceed. I intend to take up this mass of testimony, and sift it a little further,

to see how far it warrants the conclusions of the committee touching the elections of the members of the Legislature on the 30th of March, 1855. The testimony is all we have anything to do with. The conclusions of the committee are nothing. They were not authorized to give us any of their conclusions; and I have shown you what their conclusions are worth, taking one as a sample. To collect and report the facts was all they had to do. Then, sir, what fact is sworn to by a single witness, upon which the election, in a single district, held on the 30th of March, could be legally set aside if we were now sitting in judgment upon it? The greater part of this testimony, taken with the view to impeach the election of 30th of March, is nothing but long-winded stories, as pointless as they are evidently prejudiced, founded in many instances upon bare hearsay, and altogether establishing nothing. The statements of most of the witnesses are all on the same line, speaking of an invasion, companies of men coming over from Missouri in hundreds, in wagons, armed with guns, pistols, knives, &c., *but not one of them* swears that a *single man* in the Territory, at a *single election precinct*, was *prevented* from voting by the use of these arms, or any other violence. The testimony of all the witnesses sworn does not establish the fact, that one hundred known residents of Missouri voted in the whole Territory, or that the result at a single poll would have been different if all the votes proven to be illegal be rejected in the count. There were but three or four fights throughout the Territory on the day of the election, and not one of these about voting. All this general vague rumor and statement, therefore, about an invasion from Missouri, and the election having been carried by fraud, force, and violence, I shall pass over. To set aside an election upon the grounds of illegal voting, the names of the voters must be stated, and the illegality of the votes proved. There is nothing of this kind in this testimony. Nor is the bare fact of illegal voting at an election sufficient to set it aside. If this were so, there are very few of us entitled to seats upon this floor, I suspect. To set aside an election on such grounds, it must be shown that the result would be different by a rejection of the illegal votes.

I wish, however, to call the attention of the House and the country to some real, substantial facts collected by the committee, of much weightier import than these loose sayings of one-sided and swift witnesses. Amongst these facts of substantial character is a copy of the census taken in February, 1855, which is to be found commencing on page 72 of the committee's report. This census gives the name of each resident legal voter in the Territory, thirty days before the March election. It also gives the State from which the settler migrated. The committee do not seem to have given much attention to the important facts disclosed by this official document. They have made no analysis of these facts. I have. I have counted every name on the census roll, and noted the section of country from which the settler migrated, and I find that of those who were registered as legal voters of the Territory in February, a month before the election, 1,670 were from the southern States, and only 1,018 from the entire North! There were 217 from other countries. That makes the 2,905 *resident legal voters* in the Territory, a month before the election. I have compiled a table setting forth the number of settlers from the North, and settlers from the South, as given in the census report, for each district in the Territory. Here it is:

	Settlers from the North.	*Settlers from the South.*
First district	280	88
Second district	67	132
Third district	49	37
Fourth district	24	23
Fifth district	129	295
Sixth district	83	155
Seventh district	32	21
Eighth district	12	26
Ninth district	27	10
Tenth district	29	27
Eleventh district	-	28
Twelfth district	50	49
Thirteenth district	22	55
Fourteenth district	42	286
Fifteenth district	37	206
Sixteenth district	125	192
Seventeenth district	10	40
	1,018	1,670

In the first election district, there were 280 legal voters, emigrants from the northern States, and 88 from the southern. That is the Lawrence district. In the second district, there were 67 from the North, and 132 from the South. In the third district, there were 49 from the North, and 37 from the South. In the fourth district, there were 24 from the North, and 23 from the South. In the fifth district, there were 129 from the North, and 295 from the South. In the sixth, there were 83 from the North, and 155 from the South.

Mr. SHERMAN. Will my friend read again the numbers from the fifth district?

Mr. STEPHENS. In the fifth district, there were 129 from the North, and 295 from the South. The fifth district had an overwhelming majority of residents from the South, and that is the only district, I believe, in which the committee have taken the testimony of witnesses to prove that the Abolitionists were in a majority on the day of election.

Now, sir, from these facts — facts of record, and indisputable, I deduce an argument which, to my mind, is much more incontrovertible and irresistible than any inference the majority of the committee may draw from the vague sayings of witnesses, about a multitude of strangers being at the polls in wagons, &c. This inference, which I draw from these facts, is, that there was a decided majority of anti-Free-Soilers in the Territory, and in a large majority of the districts, in the month of February, if there had been no immigration after that time. But the evidence is abundant and conclusive that there was a large immigration of legal voters from the South after

the census was taken, and before the election, much larger than at any other time. (A. B. Wade, page 159, and others.) One witness, Mr. Banks, on page 164, swears, that "betwixt two and three hundred settlers moved into the district (the first) in which he lived, which was after the census was taken, and before the election." His testimony related to only part of the district, where he was acquainted. Another witness swears that, to the best of his knowledge and belief, there were four hundred actual residents and legal voters of the pro-slavery party in this first district on the day of election, (page 1159.) The testimony shows that, in most of the districts, there was a large immigration of actual residents, legal voters from the South, after the census was taken, and before the day of election. It shows, further, that the immigration during that time was much larger from the South than the North. But the facts disclosed by the census show that there was a majority of six hundred and fifty-two of legal voters from the South over those from the North, in February. Now, sir, with these facts before us, I call the special attention of the gentleman from Ohio [Mr. SHERMAN] to the following statement in his report, on page 34:

"If the election had been confined to the actual settlers, undeterred by the presence of non-residents, or the knowledge that they would be present in numbers sufficient to outvote them, the testimony indicates that the council would have been composed of seven in favor of making Kansas a free State, elected from the first, second, third, fourth, and sixth council districts. The result in the eighth and tenth, electing three members, would have been doubtful; and the fifth, seventh, and ninth, would have elected three pro-slavery members.

"Under like circumstances the House of Representatives would have been composed of fourteen members in favor of making Kansas a free State, elected from the second, third, fourth, fifth, seventh, eighth, ninth, and tenth representative districts.

"The result in the twelfth and fourteenth representative districts, electing five members, would have been doubtful; and the first, sixth, eleventh, and fifteenth districts would have elected seven pro-slavery members.

"By the election as conducted, the pro-slavery candidates in every district but the eighth representative district received a majority of the votes."

In this statement the committee say that the testimony indicates that, if the election had been confined to the actual settlers, the council would have been composed of seven in favor of making Kansas a free State, elected from the first, second, third, fourth, and sixth council districts.

Now, sir, I join issue with the gentleman and the committee on this point. The census, which the committee seem not to have consulted, is the best testimony on it. Let us then see what *indications* it affords. The first council district consisted of the first, fourth, and seventeenth election districts. In these, according to the census, the legal voters, emigrants from the North, according to the census, was 314, from the South 151; making the number of legal resident voters in that council district 465, in February, without taking any count of immigration afterwards; but the evidence shows that many of the residents coming from the North, and even some of the acknowledged free-State men, voted for those called pro-slavery candidates, because they did not like the candidates put up by their party. They were too ultra in their abolitionism, (page 160.) The testimony shows, also, that the whole number of votes cast for the Free-Soil candidates in that council district, was but 254, (page 31.) This would give 43 majority for them, if the 254 cast for them were all *legal votes*. But the testimony of Mr. Ladd, Governor Reeder's own witness, who was a candidate on that ticket for councilman, establishes the fact that at least *fifty* of these votes were illegal, cast by emigrants from New England, just arrived—some of them forty-eight hours before the election. This will be seen on page 118 of this huge volume. His language is as follows:

"I know some of those who had recently arrived voted; I can only approximate their numbers—I should think there were from fifty to sixty. I think there were some who arrived within forty-eight hours; I cannot say as to whether they made settlements in the Territory at that time."

If, then, these fifty or sixty acknowledged illegal votes be deducted from those cast for the Abolition ticket, it would leave a majority for the candidates on the other side, of the *actual residents in February*, even in Lawrence, the great rendezvous of New England emigrants, and without any reference to the emigration from the South after the census was taken. There is no evidence, by any witness sworn, that any man, even in Lawrence, was prevented from voting by force, violence, or intimidation. Some witnesses swear that they did not vote because of the crowd; but not one swears that he could not have voted if he had wanted to, in consequence of any violence, force, or threat; and there was no crowd about the polls in the afterpart of the day. Therefore, in this first district, the testimony in connection with the census does not indicate that, if the election had been left to the *actual residents* alone, the Free-Soil ticket would have been elected. This, however, was one of the elections set aside by the Governor, and another was held there on the 22d of May.

But, sir, how is it in the other council districts mentioned by the committee? I have a paper before me which I have compiled, exhibiting the organization of all of the council districts, with the number of settlers in each from the North and South, according to the census as far as can be ascertained. The seventh, eighth, ninth, and tenth council districts were formed by dividing the districts in which the census was taken, in such a way that the exact number of settlers from each section cannot be accurately arrived at in them; but it is apparent, from the census returns, that they could not have been divided so as not to have had a large majority of settlers from the South in each. Here is the exhibit:

COUNCIL DISTRICTS.

Number of Council District.	Election Districts.	Settlers from the North.	Settlers from the South.	No. of Council.
1st, composed of	1st	280	88	2
	4th	24	23	
	17th	10	40	
		314	151	
2d " "	2d	67	132	1
3d " "	3d	49	37	1
	7th	32	21	
	8th	12	26	
		93	84	
4th " "	5th	129	295	2
5th " "	6th	83	155	1
6th " "	9th	27	10	1
	10th	29	27	
	11th	-	28	
	12th	50	49	
		106	114	
7th " "	13th and parts of 14th and 15th	-	Large majority from the South.	1
8th " "	Part of 14th, —Burr Oak precinct.	-	Large majority from the South.	1
9th " "	Part of 15th	-	Large majority from the South.	1
10th " "	16th and part of 13th	-	Large majority from the South.	2

I have already shown what the testimony indicates in the first council district. Then how is it in the second? The census shows that there were 67 resident legal votes in it from the North, and 132 from the South. The evidence of witnesses shows that this majority from the South was largely increased by actual residents before the election, (page 1157.) In the third council district the census showed a majority of 9 only from the North. The evidence of witnesses shows that this majority was overcome before the election by actual settlers from the South. The fourth shows only 129 from the North, against 295 from the South. The sixth district shows a majority of 8 from the South. In the districts mentioned by the committee, the census returns, by themselves, *clearly indicate* that but two of them had a majority of settlers from the North, while no witness states any fact to the contrary; but many confirm this indication. The eighth and tenth districts, they say, would have been doubtful, while the census shows a large majority of the settlers in those districts were emigrants from the South.

In reply to what is said in the extract read from the report touching the character of the House I have also made an exhibit from which it will be seen upon what sort of foundation that statement rests.

REPRESENTATIVE DISTRICTS.

Number of Representative districts.	Election districts.	Settlers from the North.	Settlers from the South.	No. of Reps.
1st composed of	17th	10	40	1
	4th	24	23	
		34	63	
2d " "	1st	280	88	3
3d " "	2d	67	132	2
4th " "	3d	49	37	1
5th " "	7th	32	21	1
	8th	12	26	
		44	47	
6th " "	6th	83	155	2
7th " "	5th	129	295	4
8th " "	9th	27	10	1
	10th	29	27	
		56	37	
9th " "	11th	-	28	1
	12th	50	49	
		50	77	
10th " "	13th	22	55	1
11th " "	7th Council district; viz: 18th and parts of 14th and 15th.	-	Large majority from the South.	2
12th " "	Burr Oak precinct in the 14th.	-	Majority from the South.	2
13th " "	Part of 15th	-	Majority from the South.	2
14th " "	16th and part of 13th	-	Majority from the South.	3

From this table, based upon the census, it is clearly established that there was a majority of the actual settlers from the North in the Territory in but three of the fourteen representative districts. These were the second, fourth, and eighth—electing in all but five members out of the twenty-six.

But I cannot dwell upon these exhibits. No man can gainsay the facts they disclose. They are based upon the census, and the organization of the districts by Governor Reeder; and these two exhibits show conclusively to my mind, and as I think to all candid minds, that if the vote in the Territory had been confined exclusively to the *actual resident registered voters in February*, the result of the election would not have been different from what it was! The census shows that there were then a majority of 652 residents in the Territory from the South, over those from the North; and it is well known that great numbers of the emigrants from the North voted with the southern settlers against the Free-Soil party at the election. Four of the members elected to the Legislature, voted for by southern men, were from the North. Mr. Banks, a member of the House, went from Pennsylvania; Mr. Waterson, from Ohio; Mr. Lykins, a member of the Council, was from Indiana, and Mr. Barbee from Illinois. These men, though emigrating from the North, were members of the Legislature, and belonged to what the gentleman styles the pro-slavery or "border ruffian" party in Kansas. The whole "Free-Soil vote," or "free-State" vote, as the gentleman calls it, in the entire Territory on the 30th of March, amounted to less than 800, as appears from the exhibits of the committee's report, (pages 31 and 32.) This is more than 200 less than the number of emigrants from the North in the Territory, according to the census, and less than one third of the legally-registered voters in February.

Now, as no witness swears that any man of that party was prevented from voting, the whole evidence taken together clearly indicates, if it does not establish, the fact conclusively, that the Free-Soil party in Kansas was largely in the minority at the March election, and that all this cry about an invasion, and the election having been carried by Missourians, is nothing but clamor. It is an after-thought. As to the statement of old man Jordan, it is sufficient to say, in reply to it, that there was no Free-Soil ticket run at the election where he was, in the third district. There was no reason, therefore, for any attempt to keep him from voting.

It is very possible, Mr. Speaker—it is even probable, and I do not mean to say but what it is altogether true, that a great many illegal votes were cast at the election. It is certainly admitted, also, that great numbers of the citizens of Missouri went into the Territory on the day of the election, but there is no proof that any great numbers of them voted. They went, according to the testimony, to see that illegal voting should not be allowed by parties sent out by the eastern emigrant aid societies, barely for the purpose of voting and returning. The main point, however, I am now presenting is, that if every vote be rejected and cast out of the count but those of the *actual resident registered voters in the Territory in February*, the result, upon all reasonable and rational grounds of calculation and conclusion, would have been the same as it was. These views are founded upon fixed and ascertained facts—upon a registry of the legal voters, with the places from which they went, and not upon loose statements of one-sided witnesses about the polls being crowded with strangers, and great multitudes of people coming upon the ground in wagons, &c. Why, Mr. Johnson (one of the judges of election, too, at a precinct in the seventh district) swears, on page 261, that "a great many of the people in that district, whom he considered legal voters, came to the polls in their wagons, I have no doubt, as I came there myself in my wagon. *It is the habit of the people in the Territory to go to gatherings in their wagons.*" And in this immediate connection, too, he states, "and as a judge of election, I am willing now to swear that we allowed no man to vote that we did not consider had a right to vote."

The tale told by all the witnesses examined by Governor Reeder amounts to nearly the same thing. They all had their "story pat." A great crowd was assembled about the polls. Some had guns, pistols, and knives. Well, sir, when and where was there ever an election held at which the people did not crowd about the polls? And is it not strange, that this army of invasion, with flags, banners, and music—guns, pistols, and knives, did so little mischief? Not a man was hurt by them in the whole Territory! Not a homicide committed! Not even an assault and battery about voting in the whole Territory! For from all the testimony taken it appears that there were but three or four fights in all Kansas on the day of election; and these fights were not about voting! Why, sir, in the municipal election in this city, the other day, at one precinct alone, there were half a dozen men knocked down—some were shot—one has since died of the wounds received in the affray; and one man, two or three days afterwards, was killed in the streets merely for hurrahing for his candidate! But in the invasion and subjugation of Kansas on this memorable election day, no man was killed—no man was even whipped for, or on account of, his voting! Strange invasion and subjugation was that! A subjugation without a life lost, a bone broken, or a bruise given, and about which no complaint was raised until months afterwards! And why, Mr. Speaker, was it got up afterwards? Why do we hear so much of it now? What is the real cause of all this clamor at this time, in this House and out of it, about the illegality of the election of the Legislature in Kansas, and these pretended grievances of a pretended down-trodden majority there, crying out for redress against a system of laws imposed upon them by the people of a neighboring State? I understand it, sir, very well, and you, too, doubtless, understand it. We all understand it. There is a party in this country determined to "*rule or ruin*"—not only in Kansas, but throughout the Republic. It is a party formed upon geographical lines against

the warning in the Farewell Address of the Father of his Country.

I may be permitted, in this connection, to allude to this true and real cause of all these difficulties; for, but for this cause, I venture to say, such a case as that now presented before this House would not have received one hour's consideration. The true cause, then, lies in no real grievance in Kansas, but in the aims, objects, and purposes of this party. They are against allowing the people of the Territories of the United States to exercise the right of self-government, as provided in the Kansas bill. The elections in Kansas did not go to suit that party. They call themselves Republicans, and their republicanism amounts to about this: they acknowledge the right of the people to govern themselves, provided they do it according to their notions. They make loud professions, and utter "shrieks" for the "freedom of the Africans" amongst us, while they will not grant the freedom of making their own laws to their own countrymen, of their own race and blood, unless it is exercised in conformity to their will. These men were opposed originally to the Kansas-Nebraska act, because it granted the right to the free white men there to assign the negro to that *status*, in their political systems, which they, in their wisdom and patriotism, might determine to be best for both them and him. They wish to govern Kansas, not according to the wishes of the people there, but as they please.

Sir, I profess to be a republican of the old school, of the school of Madison and Jefferson and Washington. It was upon the principles of that school I was in favor of the Kansas bill, and am still; and I am in favor of adhering to it and carrying it out in good faith, both in letter and spirit. I justify no wrongs that may have arisen under it, if any have, coming from any quarter whatever; and I am compelled to believe, from all the testimony taken in this case, that whatever wrongs may have been committed by any portion of the people of Missouri, they were retaliatory in their character. The first wrong was committed by those whose sole object was to defeat the peaceful and quiet operation of the principles of that bill. Whatever ills may have befallen these intermeddlers, have been clearly of their own seeking; and we seldom see a man going out of his way to get into a difficulty who makes much by it. I am, however, sir, for applying all proper remedies for existing difficulties, and for quieting all disturbances which have arisen in Kansas, in any proper and legitimate way. This I have shown by my advocacy of the Senate's bill, which still sleeps upon your table, and which you will not touch: that is a fair and a just mode of pacification. If pacification is what you want, that is one way in which it can be accomplished. It cannot be done by *ignoring* their laws, and voting their Delegate out of a seat on this floor. It cannot be done by making the President supreme dictator over them. It cannot be done by withholding appropriations and stopping the wheels of the General Government, and throwing us all into anarchy, unless the will of a majority of this House, upon the subject of African slavery, shall be the law in that Territory. It cannot be done by sixteen States of this Union setting themselves up to govern not only Kansas, but the other fifteen separate and independent coequal States in this Confederacy. It can only be done by leaving this question, in some form or another, just where the Kansas bill put it. This is the only ultimate, peaceful solution of the whole matter, and it will be so found in the end.

The people of Kansas, I take it, are capable of governing themselves, just as wisely, peacefully, patriotically, and as safely, without dictation from, or control by you, as they were in the States from which they migrated. They lost none of their intelligence, virtue, patriotism, or sovereignty, I trust, by a change of residence. They can judge better of the character of their laws than you can. If they do not suit the wishes of a majority of the people there, they doubtless will be changed in due time and in a proper way. The day for a new election, if the Senate bill is not to pass, is near at hand. In October a new Legislature is to be elected. Why should the people there be encouraged to acts of revolution, or this House be induced to take steps leading to revolution here, when the constitutional and peaceful remedy of the ballot-box is so near at hand? Why cannot all these questions be left to the people of Kansas to settle at their next election? If the Free-Soil party are in the majority, as you say it is, why shrink from that test? I question if any State in the Union has got a better election law—one more rigidly guarding the free exercise of the elective franchise—than the people of Kansas have, which is that very law you are now about to be called upon to declare invalid and void. Amongst other provisions, it contains the following, which I called the attention of the House to once before on this floor:

"SEC. 24. If any person, by menaces, threats, and force, or by any other unlawful means, either directly or indirectly, attempt to influence any qualified voter in giving his vote, or to deter him from giving the same, or disturb or hinder him in the free exercise of his right of suffrage, at any election held under the laws of this Territory, the person so offending shall, on conviction thereof, be adjudged guilty of a misdemeanor, and be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year.

"SEC. 25. Every person who shall, at the same election, vote more than once, either at the same or a different place, shall, on conviction, be adjudged guilty of a misdemeanor, and be punished by fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding three months.

"SEC. 26. Every person not being a qualified voter according to the organic law and the laws of this Territory, who shall vote at any election within this Territory, knowing that he is not entitled to vote, shall be adjudged guilty of a misdemeanor, and punished by fine not exceeding fifty dollars.

"SEC. 27. Any person who designedly gives a printed or written ticket to any qualified voter of this Territory, containing the written or printed names of persons for whom said voter does not design to vote, for the purpose of caus-

ing such voter to poll his vote contrary to his own wishes, shall, on conviction, be adjudged guilty of a misdemeanor, and punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

"SEC. 28. Any person who shall cause to be printed and circulated, or who shall circulate, any false and fraudulent tickets, which upon their face appear to be designed as a fraud upon voters, shall, upon conviction, be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

"This act to take effect and be in force from and after its passage."—Chap. 52, p. 281.

Are not these provisions ample to secure a full and fair expression of the popular will in the choice of those who shall make laws for them, or to change and alter any obnoxious ones that may now be in force? What objection is there to it? The only one I have heard is, that another clause denies the right of suffrage to those who may be guilty of a violation of the fugitive slave law, and requires a voter, on being challenged, to purge himself by what is called the "test oath." This is the provision to which the gentleman from Vermont [Mr. MEACHAM] alluded the other day, I suppose, when he applied to it the term "scandalous." But, sir, I do not see how that gentleman and his friends generally can object strongly even to that feature, since their vote, two days ago, upon the bill introduced by the gentleman from Indiana, [Mr. DUNN.] That bill expressly affirms the fugitive slave law, notwithstanding all that has been said by them against it, and their denunciations of those by whose votes it was passed. In order to get a restoration of the Missouri restriction over Kansas, this side of the House voted for this very fugitive slave law; and nothing but a "*pair*" prevented the gentleman from Vermont [Mr. MEACHAM] from voting for it himself. Here is a clause, for which all on this side of the House voted:

"*And provided further*, That any person lawfully held to service in any other State or Territory of the United States, and escaping into either the Territory of Kansas or Nebraska, may be reclaimed and removed to the person or place where such service is due, under any law of the United States which shall be in force upon the subject."

This is an indorsement in express terms of the fugitive slave law, as it now exists upon the statute-book, for which I say all on this side of the House voted a few days ago.

Mr. LEITER. I did not vote for that provision.

Mr. STEPHENS. I beg the gentleman's pardon; he did vote against it, I believe.

Mr. BENNETT, of New York. The gentleman must make another exception. I did not vote for the fugitive slave provision.

Mr. STEPHENS. I believe the gentleman did not vote at all. I intended to speak only of those who did vote. The gentleman from Ohio [Mr. LEITER] is the only one on the Free-Soil side who voted against it. All the others who voted at all voted for it; and I allude to the fact to show that, for the purpose of accomplishing a favorite object, those who have been so loud in their denunciations of this law have been willing to give it their sanction. Even the senior gentleman from Ohio, [Mr. GIDDINGS,] who some time ago arraigned his colleague, [Mr. CAMPBELL,] the chairman of the Ways and Means Committee, for bringing forward a bill containing items of appropriation to pay officers for the discharge of their duty in the execution of this law, has, by his vote, not only sanctioned its constitutionality, but the propriety of its enforcement.

Mr. GIDDINGS. Will the gentleman from Georgia allow me to ask him a question? I understand he is in favor of the fugitive slave law; but I ask him whether he voted for the fugitive slave law to which he alludes, the other day?

Mr. STEPHENS. I did not.

Mr. GIDDINGS. Then the gentleman and I disagree.

Mr. STEPHENS. Yes, we disagree in many things, but not on that point in that bill, if the gentleman was really in favor of what he voted for. The gentleman voted for the bill, I suppose, notwithstanding it contained the fugitive slave clause, because it contained an arbitrary and absolute restriction upon the *free will* of the *free white men* in Kansas. It was upon that point we disagreed. The fugitive slave law is already in force in that Territory by the original Kansas bill, for which I voted. But how can that gentleman and others, who gave the vote they did the other day, ever hereafter raise their voices against the *constitutionality* of this law, and in denunciation of those who voted for it in 1850? I recollect a member from Michigan, (Mr. Buel,) who was literally run down in his State for voting for it at that time. Pictures were got up, I was told, representing him with a slaveholder in pursuit of his fugitives. He was beaten before the people in his election for giving that vote. Perhaps some one who aided in that defeat is present. If so, and if he was in his place and voted two days ago, he reaffirmed by his vote the very same law. Let this be made known to his constituents. It is but due to the character and worth of a noble and true man, who fell a victim to the Moloch of party in the discharge of a public duty, and in the maintenance of his constitutional obligations.

But, sir, the point I was on is this: How can gentlemen raise such objections to that feature in the Kansas election law, which denies the right of suffrage to those who are guilty of a violation of a statute of the United States, which they, by their votes, have affirmed shall subject them to the pains and penalties of felony? Crimes of certain grades, in many of the States, deprive men of the right of voting. Why may not felony in Kansas be a disqualification as well as anywhere else? Why not leave this matter to a majority of the honest people in the Territory to settle for themselves at the next election? The reason, sir, is obvious. The party to which I have alluded are opposed to the principle of the people in each State and community attending to their own internal affairs, and of allowing those

in other States and communities to do the same. All our American systems rest upon this principle; yet they are opposed to it. Men in Massachusetts, New York, and Ohio, are not content with looking after the well-being of their own States, but they wish to set themselves up as supervisors, legislators, and rulers of the people in other places beyond their jurisdiction. And these are the men who are so constantly *prating* about the slave power—its aggressions, its insolence, and its dictation. When, sir—when did the slave power ever assume such insolence, put on such arrogance, use such dictation, or claim such prerogatives, as this class of men do in this instance? When did southern statesmen ever seek to impose their institutions upon any other State or Territory? I know it is said that they have endeavored to extend slavery by Congress.

The gentleman from Indiana [Mr. CUMBACK] the other day said the object of the Kansas bill was to make Kansas a slave State by act of Congress. No such thing, sir. The object of the Kansas bill was neither to make it a slave State nor a free State; but, after taking off the restriction of 1820, to leave that matter without any interference, dictation, or control on the part of Congress to the people there to settle for themselves, subject only to the Constitution of the United States. The object is clearly set forth in the bill itself. Here are its words:

"That the Constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect in the said Territory of Kansas as elsewhere within the United States, except the eighth section of the 'Act preparatory to the admission of Missouri into the Union,' approved March 6, 1820, which, being inconsistent with the principle of non intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The difference between southern statesmen and northern Free-Soilers upon this subject is, that the former are willing, and ever have been, to leave the question of the domestic institutions in the new States to the people to settle for themselves; while the latter are seeking to mold and fashion them according to their peculiar prejudices. All that the South asked in the annexation of Texas, and all the guarantee she got was, simply, that the people in certain States, hereafter to be formed out of Texas, might come into the Union either with or without slavery, as the people may determine for themselves. This is what Free-Soilers call an aggression of the slave power. We at the South consider it nothing but the establishment of the great principle of self-government which was the germ of the American Revolution. Free-Soilers hold the position towards the Territories and new States, which Lord North and his ministry in the British Parliament did, towards the colonies. He and they, in adhering to their policy of governing the colonies in all cases whatsoever, severed one empire. It may be that their imitators on this continent, by pursuing a similar policy, may sever a far more glorious, prosperous, and happy Confederacy of States. Southern statesmen on this question occupy the grounds of the old Whigs, the old Democrats, and the old Republicans, of the days of the Revolution. They say it is not only unjust, but anti-republican, for the Representatives on this floor from the various States of the Union, to attempt, arbitrarily, to impose laws and institutions upon the people of the distant Territories, who have no representation by votes upon this floor.

When I addressed this House some time ago, I called attention to some remarks made by Mr. John Quincy Adams, at Pittsburg, in November, 1843, upon the subject of abolishing slavery in this District. These remarks are pertinent to the present question. His anti-slavery sentiments were quite as strong, perhaps, as those of any man now present; but he was opposed to the abolition of slavery in this District by Congress, because it was anti-republican. These are his words:

"As to the abolition of slavery in the District of Columbia, I have said that I was opposed to it—not because I have any doubts of the power of Congress to abolish slavery in the District, for I have none. But I regard it as *a violation of republican principles* to enact laws at the petition of *one people* which are to operate upon *another people against their consent.*"

Mr. Adams said it was a "*violation of republican principles* to enact laws at the petition of *one people* which are to operate upon *another people against their consent;*" and for the same reason I say to you, who have assumed the title of Republicans, you violate every principle consecrated by the name you bear, by attempting to force institutions upon the people of Kansas against their consent. If a majority there see fit to assign the negro the same condition he occupies in the southern States, let them do it. If a majority of them shall prefer that he shall be an outcast amongst them, without the franchise of a freeman, or the protection of a master, as he is in many States of the Union—a vagabond, in a worse condition than that of Cain—for he had a mark on him that no man should hurt him—let them so determine. This is our position.

Mr. STANTON. Does the gentleman hold that the Territorial Legislatures have power to exclude slavery?

Mr. STEPHENS. I say that, if Congress has the power, so has the Territorial Legislature. The gentleman, I believe, holds that Congress has the power, I do not; and consequently I do not hold that the Territorial Legislatures can rightfully exclude slavery. I hold that the public domain being public property, purchased by the common blood and common treasure of all, should be left free and open for settlement and colonization equally by the citizens of all the States alike until they come to form their State constitution; but I

repeat what I have said before, that if a majority of the people of the Territory, upon a fair expression of the popular will in due form of law, shall decide against slavery, I am willing to abide by that determination. Now is the gentleman willing to do this? He is silent. By his votes he has said that he is unwilling to do it. That is the difference between us.

Now, I say, again, that southern statesmen have never asked Congress to impose their institutions upon an unwilling people. They have always believed in the ability and capacity of the men of their own race to govern themselves wisely, and for the best interests of themselves and their posterity, in each State and community for itself. The party to which I have alluded is arrayed against this principle. It is nothing but a shoot, a sprout, a *rattoon* from the buried roots of the old Rufus-King, Hartford-convention party, which was always against this principle of self-government—of popular sovereignty—upon which all our American institutions rest.

Mr. GIDDINGS. The gentleman from Georgia says that the South has always held to the capability of man for self-government. I would inquire whether it is a part of that self-government to flog their slaves?

Mr. STEPHENS. It is a part of all kinds of government to punish offenders, whether white or black, bond or free. This may be done, according to the grade of the offense, either by flogging, imprisoning, branding, or hanging, as the law-making power may determine. The principle of self-government which I advocate applies to men of our own race—free white men. I do not believe that the African race is capable of self-government, either in the South or North. They never have been from the earliest days of history. In the gentleman's own State they are not acknowledged to be within the principle. They are not acknowledged as equals either socially or politically. They take no part in the government under which they live. Whether they are flogged there I do not know, but great numbers of them are in jails, according to the census. The constitutions of most of what are called "*free States*" in this Union show that they are not even there considered capable of self-government.

Mr. GIDDINGS. Does the gentleman believe that the Africans who captured American Christians, and made slaves of them, were capable of self-government?

Mr. STEPHENS. They were of a different race. I allude to the black, woolly-headed negroes. [Laughter.]

Mr. GIDDINGS. The gentleman knows there are descendants of Jefferson and others here whose blood is tinctured with that of the African. Now, how much African blood must they have to be incapable of self-government?

Mr. STEPHENS. One eighth part or degree by our law. [Renewed laughter.] Has the gentleman any further question? Now, sir, notwithstanding we at the South hold this incapacity in the negro of self-government, and notwithstanding we deny him social and political equality, I maintain that he is better off there, better provided for, better taken care of, and is more prosperous and happy in his condition amongst us, than he is in any other part of the world—not excepting the gentleman's own State. This the last census showed. The negroes with us, sir, even under the restraints of power over them, enjoy not only more comforts of life, but more rational liberty than they do anywhere else. They enjoy quite as much as they are fit for. All rational liberty is founded on restraints. "Bonds make free." To constitutional and legal bonds we are all indebted for whatever liberty any of us enjoy. Liberty without bonds of some sort is nothing but licentiousness. And those bonds in which the negro is placed with us are only such as are necessary for the largest liberty he is capable of enjoying. Dependence and subordination is his natural and normal condition; but socially, the position of this people is better at the South than it is at the North, so far as my observation has extended. At the North they are excluded, and shunned as a leprous *caste*. At the South they look to their masters as guardians for protection, and they are treated with that respect and kindness due to their condition. But, sir, I must return from this digression.

I have shown you the utter groundlessness of the assumed facts upon which the first resolution before us, proposing to vote the sitting Delegate out of his seat, is founded. I have also shown that the real and true reason of this unheard-of proceeding is not the one assigned, but that it is to be found in the purposes of that great sectional, abolition party, which is now seeking to govern as they please, not only the common Territories, but the whole fifteen southern States of this Union.

It is now for me briefly—for I have but a few moments of time left—to allude to the second resolution before us, which is even more monstrous than the first. This proposes to assign a seat on this floor to Andrew H. Reeder, as a Delegate from Kansas, not by virtue of his being entitled to it, but because it is supposed there is a majority here willing to do it. It is not pretended that he has the shadow of a claim of legal right to it. The majority of the Committee of Elections who have reported this resolution, do not venture to say that he is *entitled* to a seat. The resolution is an anomaly of its character. It simply says:

Resolved, That Andrew H. Reeder be admitted to a seat on this floor as a Delegate from the Territory of Kansas.

He presents no certificate of election, or credentials from any quarter, except the report of the Kansas committee. This committee, on page 67, say, "That Andrew H. Reeder received a greater number of votes of resident citizens than John W. Whitfield for Delegate." This is his whole case, and this statement by them is unsustained by proof. The majority of the Committee of Elections have adopted it; and I now call upon the chairman, [Mr. WASHBURN, of Maine,] who will conclude this argument, to show the evidence upon which it is founded. I make the demand of him in the presence of the House and the country. He cannot respond to it; for this

is one of the bold assertions of this investigating committee, which there is no testimony to warrant. Reeder was not a candidate at the election when Whitfield was elected. He was not a candidate at any election held in pursuance of any legal authority. He was voted for, it is said, on the day that delegates were elected to a convention under the Topeka movement; and on page 58 of the report, there appears what is styled an abstract of the number of votes received by him; but this is nothing but a statement by the committee. There is not a particle of evidence to show where it came from, or what credit is to be given to it; and I call upon the gentleman from Ohio [Mr. SHERMAN] to show the facts upon which this statement—this abstract is based. There is not a particle of evidence in this whole volume to sustain it. The only evidence showing the number of votes that Reeder got is to be found on pages 670, 682, and 683. On page 670 it appears that he received at the third and seventh precincts of the third district, 24 votes. On page 682, it appears that he received at the house of Richard J. Farqua, in the sixth district, 12 votes; and on page 683, it appears that he received at Columbia precinct, in the same district, 20 votes—making 56 in all, and all told! If there is any evidence, or any proof that he received another vote in the Territory, I call upon the gentleman to point it out. If there be any such, it has escaped me; while it appears from a copy of the official records, to be found on pages 45 and 46, that Whitfield received upwards of 2,700 votes. How, then, could the Kansas committee say that Reeder received a larger number of the votes of resident citizens than Whitfield did? And yet this is one of the incontrovertible facts which the Committee of Elections say have been established by the proof.

Mr. Speaker, I can say no more upon the subject. If Whitfield is to be ousted because he was not elected in pursuance of any valid law, upon what principle can Reeder be put in by this House, when in his case there was neither law nor votes. There is but one principle upon which it can be done, and that is, "*Sic volo, sic jubeo*"—I so will it, and I so order it. It is the principle of all tyrannies, and the beginning of all usurpations; but I will not permit myself to believe that this House will commit such an outrage. I will not believe it until I see th perpetration of the deed.